

FILED
U.S. DISTRICT COURT
BRUNSWICK DIV.

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

DEC -1 P 3:00

CLERK *Carroll*
SO. DIST. OF GA.

DOUGLAS ASPHALT
COMPANY, JOEL H. SPIVEY and
KYLE SPIVEY,

Plaintiffs,

v.

Civil Action No:2:06-cv-229-AAA

QORE, INC.; APPLIED
TECHNICAL SERVICES, INC;
GEORGENE M. GEARY; GLENN
DURRENCE; GUOHUA
"GEORGE" LIAN; PAUL V.
MULLINS; GREG MAYO; LARRY
MATTHEWS; HAROLD
LINNENKOHL; and RICK
DOUDS,

Defendants.

ANSWER AND DEFENSES
AND TWELVE-PERSON JURY DEMAND

COMES NOW Applied Technical Services, Inc., Defendant in the above-styled action, and files the following Answer and Defenses to the Plaintiffs' First Amended and Recast Complaint for Damages and respectfully shows the Court the following:

FIRST DEFENSE

Some or all of the Complaint fails to set forth a claim against Defendant upon which relief can be granted.

SECOND DEFENSE

Defendant is not liable to Plaintiff because Defendant breached no duty owed to Plaintiff in regard to the occurrence giving rise to this Complaint.

THIRD DEFENSE

No alleged breach of duty by Defendant was the proximate cause of Plaintiff's damages.

FOURTH DEFENSE

Defendant shows that Plaintiff's alleged damages were caused by Plaintiff's own contributory and comparative negligence.

FIFTH DEFENSE

Plaintiff by the exercise of ordinary care could have avoided the consequences of any act or failure to act of Defendant.

SIXTH DEFENSE

Defendant raises a defense based on the Georgia doctrine of legal accident.

SEVENTH DEFENSE

Plaintiff's alleged damages were caused by the acts and failure to act of persons or entities other than Defendant.

EIGHTH DEFENSE

Plaintiff's alleged damages were caused by the unforeseeable intervening actions of a third party.

NINTH DEFENSE

An award of punitive damages is prayed for in this civil action. Defendant contends that there is not evidence sufficient to create a jury issue on punitive damages as to this Defendant. Defendant also contends that any award of punitive damages against it in this case would be unconstitutional, and that the statutes allegedly authorizing punitive damages are unconstitutional on their face and as applied.

1. An award of punitive damages in this case would violate double jeopardy in the event there is more than one judgment against this Defendant, and would violate due process and equal protection clauses of the United States Constitution (U.S. Const. Amends. V and XIV) and the excessive fines clause of the United States Constitution (U.S. Const. Amend. VIII).

2. The statutes, and the court decisions interpreting these statutes, fail to notify individuals of the nature of the offense for which they may be liable for punitive damages and they fail to limit the award of punitive damages to:

(a) the degree of reprehensibility of the Defendant's misconduct;

- (b) the disparity between the harm (or potential harm) suffered by the Plaintiff and the punitive damages award; and
- (c) the difference between the punitive damages awarded by the jury and the civil penalties authorized or imposed in comparable cases.

3. To the extent the trier of fact is permitted to consider the Defendant's net worth, wealth or financial condition in awarding punitive damages, or in calculating the amount of any such award, such an award violates due process and equal protection of the clauses of the United States Constitution (U.S. Const. Amends. V & XIV);

4. The statutes, and the court decisions interpreting these statutes, fail to ensure the award of punitive damages is both reasonable and proportionate in measure to the amount of harm to the Plaintiff and to the general damages recovered. *See State Farm Mutual Automobile Insurance Co. v. Campbell et al.*, 123 S. Ct. 1513, 2003 U.S. Lexis 2713, 32 (2003)(stating that few awards exceeding a single-digit ratio between punitive and compensatory damages will satisfy due process).

TENTH DEFENSE

For its Tenth Defense, Defendant answers the Plaintiff's Complaint as follows:

I. PARTIES, JURISDICTION AND VENUE

1.

Defendant neither admits nor denies the allegations contained in Paragraph No. 1 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

2.

Defendant neither admits nor denies the allegations contained in Paragraph No. 2 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

3.

Defendant admits that Applied Technical Services, Inc. is a Georgia Corporation and that its registered agent is William H. Lewis, 1190 Atlanta Industrial Drive, Marietta, GA 30066.

4.

Defendant neither admits nor denies the allegations contained in Paragraph No. 4 of the Plaintiff's Complaint for want of sufficient information to form a

belief as to the truth thereof, and places Plaintiff on strict proof of same.

5.

Defendant neither admits nor denies the allegations contained in Paragraph No. 5 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

6.

Defendant neither admits nor denies the allegations contained in Paragraph No. 6 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

7.

Defendant neither admits nor denies the allegations contained in Paragraph No. 7 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

8.

Defendant neither admits nor denies the allegations contained in Paragraph No. 8 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

9.

Defendant neither admits nor denies the allegations contained in Paragraph

No. 9 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

10.

Defendant neither admits nor denies the allegations contained in Paragraph No. 10 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

11.

Defendant neither admits nor denies the allegations contained in Paragraph No. 11 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

12.

Defendant admits that venue are proper in this Court.

13.

Defendant admits that jurisdiction is proper in this Court.

14.

Defendant denies as pled the allegations contained in Paragraph 14 of Plaintiff's complaint.

II. FACTUAL ALLEGATIONS

15.

Defendant neither admits nor denies the allegations contained in Paragraph No.15 Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

16.

Defendant neither admits nor denies the allegations contained in Paragraph No. 16 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

The I-95 Project

17.

Defendant neither admits nor denies the allegations contained in Paragraph No. 17 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

18.

Defendant neither admits nor denies the allegations contained in Paragraph No. 18 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

19.

Defendant neither admits nor denies the allegations contained in Paragraph No. 19 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

20.

Defendant neither admits nor denies the allegations contained in Paragraph No. 20 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

21.

Defendant neither admits nor denies the allegations contained in Paragraph No. 21 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

22.

Defendant neither admits nor denies the allegations contained in Paragraph No. 22 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

23.

Defendant neither admits nor denies the allegations contained in Paragraph No. 23 of the Plaintiff's Complaint for want of sufficient information to form a

belief as to the truth thereof, and places Plaintiff on strict proof of same.

24.

Defendant neither admits nor denies the allegations contained in Paragraph No. 24 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

25.

Defendant neither admits nor denies the allegations contained in Paragraph No. 25 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

26.

Defendant neither admits nor denies the allegations contained in Paragraph No. 26 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

27.

Defendant neither admits nor denies the allegations contained in Paragraph No. 27 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

28.

Defendant neither admits nor denies the allegations contained in Paragraph No. 28 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

29.

Defendant neither admits nor denies the allegations contained in Paragraph No. 29 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

Testing Procedures

30.

Defendant neither admits nor denies the allegations contained in Paragraph No. 30 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

31.

Defendant neither admits nor denies the allegations contained in Paragraph No. 31 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

32.

Defendant neither admits nor denies the allegations contained in Paragraph

No. 32 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

33.

Defendant neither admits nor denies the allegations contained in Paragraph No. 33 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

34.

Defendant neither admits nor denies the allegations contained in Paragraph No. 34 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

35.

Defendant neither admits nor denies the allegations contained in Paragraph No. 35 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

36.

Defendant neither admits nor denies the allegations contained in Paragraph No. 36 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

37.

Defendant neither admits nor denies the allegations contained in Paragraph No. 37 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

38.

Defendant neither admits nor denies the allegations contained in Paragraph No. 38 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

39.

Defendant neither admits nor denies the allegations contained in Paragraph No. 39 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

40.

Defendant neither admits nor denies the allegations contained in Paragraph No. 40 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

41.

Defendant neither admits nor denies the allegations contained in Paragraph No. 41 of the Plaintiff's Complaint for want of sufficient information to form a

belief as to the truth thereof, and places Plaintiff on strict proof of same.

42.

Defendant denies as pled the allegations contained in Paragraph 42 of Plaintiff's complaint.

43.

Defendant denies as pled the allegations contained in Paragraph 43 of Plaintiff's complaint.

44.

Defendant denies as pled the allegations contained in Paragraph 44 of Plaintiff's complaint.

45.

Defendant denies as pled the allegations contained in Paragraph 45 of Plaintiff's complaint.

46.

Defendant denies as pled the allegations contained in Paragraph 46 of Plaintiff's complaint.

47.

Defendant neither admits nor denies the allegations contained in Paragraph No. 47 of the Plaintiff's Complaint for want of sufficient information to form a

belief as to the truth thereof, and places Plaintiff on strict proof of same.

48.

Defendant denies as pled the allegations contained in Paragraph 48 of Plaintiff's complaint.

49.

Defendant neither admits nor denies the allegations contained in Paragraph No. 49 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

50.

Defendant neither admits nor denies the allegations contained in Paragraph No. 50 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

51.

Defendant neither admits nor denies the allegations contained in Paragraph No. 51 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

52.

Defendant neither admits nor denies the allegations contained in Paragraph No. 52 of the Plaintiff's Complaint for want of sufficient information to form a

belief as to the truth thereof, and places Plaintiff on strict proof of same.

The I-95 Paving Project

53.

Defendant neither admits nor denies the allegations contained in Paragraph No. 53 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

54.

Defendant neither admits nor denies the allegations contained in Paragraph No. 54 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

55.

Defendant neither admits nor denies the allegations contained in Paragraph No. 55 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

56.

Defendant neither admits nor denies the allegations contained in Paragraph No. 56 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

57.

Defendant neither admits nor denies the allegations contained in Paragraph No. 57 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

58.

Defendant neither admits nor denies the allegations contained in Paragraph No. 58 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

59.

Defendant neither admits nor denies the allegations contained in Paragraph No. 59 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

60.

Defendant neither admits nor denies the allegations contained in Paragraph No. 60 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

61.

Defendant neither admits nor denies the allegations contained in Paragraph No. 61 of the Plaintiff's Complaint for want of sufficient information to form a

belief as to the truth thereof, and places Plaintiff on strict proof of same.

62.

Defendant neither admits nor denies the allegations contained in Paragraph No. 62 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

63.

Defendant neither admits nor denies the allegations contained in Paragraph No. 63 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

64.

Defendant neither admits nor denies the allegations contained in Paragraph No. 64 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

65.

Defendant neither admits nor denies the allegations contained in Paragraph No. 65 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

66.

Defendant neither admits nor denies the allegations contained in Paragraph

No. 66 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

67.

Defendant neither admits nor denies the allegations contained in Paragraph No. 67 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

68.

Defendant neither admits nor denies the allegations contained in Paragraph No. 68 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

The I-75 Project

69.

Defendant neither admits nor denies the allegations contained in Paragraph No. 69 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

70.

Defendant neither admits nor denies the allegations contained in Paragraph No. 70 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

71.

Defendant neither admits nor denies the allegations contained in Paragraph No. 71 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

72.

Defendant neither admits nor denies the allegations contained in Paragraph No. 72 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

73.

Defendant neither admits nor denies the allegations contained in Paragraph No. 73 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

74.

Defendant denies as pled the allegations contained in Paragraph 74 of Plaintiff's complaint.

75.

Defendant neither admits nor denies the allegations contained in Paragraph No. 75 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

76.

Defendant neither admits nor denies the allegations contained in Paragraph No. 76 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

77.

Defendant neither admits nor denies the allegations contained in Paragraph No. 77 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

78.

Defendant neither admits nor denies the allegations contained in Paragraph No. 78 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

79.

Defendant neither admits nor denies the allegations contained in Paragraph No. 79 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

80.

Defendant neither admits nor denies the allegations contained in Paragraph No. 80 of the Plaintiff's Complaint for want of sufficient information to form a

belief as to the truth thereof, and places Plaintiff on strict proof of same.

81.

Defendant neither admits nor denies the allegations contained in Paragraph No. 81 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

82.

Defendant neither admits nor denies the allegations contained in Paragraph No. 82 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

83.

Defendant neither admits nor denies the allegations contained in Paragraph No. 83 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

84.

Defendant neither admits nor denies the allegations contained in Paragraph No. 84 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

III. CAUSES OF ACTION

Count I – Negligent Misrepresentation

85.

Defendant restates and incorporates its responses to Paragraphs 1 through 84 as if fully stated herein.

86.

Defendant denies as pled the allegations contained in Paragraph 86 of Plaintiff's complaint.

87.

Defendant denies as pled the allegations contained in Paragraph 87 of Plaintiff's complaint.

88.

Defendant denies as pled the allegations contained in Paragraph 88 of Plaintiff's complaint.

89.

Defendant denies as pled the allegations contained in Paragraph 89 of Plaintiff's complaint.

Count II - Fraud

90.

Defendant restates and incorporates its responses to Paragraphs 85 through 89 as if fully stated herein.

91.

Defendant denies as pled the allegations contained in Paragraph 91 of Plaintiff's complaint

92.

Defendant denies as pled the allegations contained in Paragraph 92 of Plaintiff's complaint

93.

Defendant denies as pled the allegations contained in Paragraph 93 of Plaintiff's complaint

94.

Defendant denies as pled the allegations contained in Paragraph 94 of Plaintiff's complaint

95.

Defendant denies as pled the allegations contained in Paragraph 95 of Plaintiff's complaint.

Count III – Defamation/False Light

96.

Defendant restates and incorporates its responses to Paragraphs 89 through 95 as if fully stated herein.

97.

Defendant denies as pled the allegations contained in Paragraph 97 of Plaintiff's complaint.

98.

Defendant denies as pled the allegations contained in Paragraph 98 of Plaintiff's complaint.

99.

Defendant denies as pled the allegations contained in Paragraph 99 of Plaintiff's complaint.

100.

Defendant denies as pled the allegations contained in Paragraph 100 of Plaintiff's complaint.

101.

Defendant denies as pled the allegations contained in Paragraph 101 of Plaintiff's complaint.

Count IV – Federal R.I.C.O. Act

Parties

102.

Defendant denies as pled the allegations contained in Paragraph 102 of Plaintiff's complaint.

103.

Defendant neither admits nor denies the allegations contained in Paragraph No. 103 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

104.

Defendant neither admits nor denies the allegations contained in Paragraph No. 104 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

105.

Defendant denies as pled the allegations contained in Paragraph 105 of Plaintiff's complaint.

The Pattern of Fraudulent Schemes

106.

Defendant neither admits nor denies the allegations contained in Paragraph

No. 106 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

107.

Defendant neither admits nor denies the allegations contained in Paragraph No. 107 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

108.

Defendant neither admits nor denies the allegations contained in Paragraph No. 108 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

109.

Defendant denies as pled the allegations contained in Paragraph 109 of Plaintiff's complaint.

Testing Scheme

110.

Defendant neither admits nor denies the allegations contained in Paragraph No. 110 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

111.

Defendant neither admits nor denies the allegations contained in Paragraph No. 111 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

112.

Defendant neither admits nor denies the allegations contained in Paragraph No. 112 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

113.

Defendant neither admits nor denies the allegations contained in Paragraph No. 113 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

114.

Defendant neither admits nor denies the allegations contained in Paragraph No. 114 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

115.

Defendant neither admits nor denies the allegations contained in Paragraph

No. 115 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

116.

Defendant neither admits nor denies the allegations contained in Paragraph No. 116 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

117.

Defendant neither admits nor denies the allegations contained in Paragraph No. 117 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

118.

Defendant denies as pled the allegations contained in Paragraph 118 of Plaintiff's complaint.

119.

Defendant denies as pled the allegations contained in Paragraph 119 of Plaintiff's complaint.

120.

Defendant denies as pled the allegations contained in Paragraph 120 of Plaintiff's complaint.

Scheme to Default

121.

Defendant neither admits nor denies the allegations contained in Paragraph No. 121 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

122.

Defendant neither admits nor denies the allegations contained in Paragraph No. 122 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

123.

Defendant neither admits nor denies the allegations contained in Paragraph No. 124 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

124.

Defendant neither admits nor denies the allegations contained in Paragraph No. 124 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

125.

Defendant neither admits nor denies the allegations contained in Paragraph No. 125 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

126.

Defendant neither admits nor denies the allegations contained in Paragraph No. 126 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

127.

Defendant neither admits nor denies the allegations contained in Paragraph No. 127 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

128.

Defendant neither admits nor denies the allegations contained in Paragraph No. 128 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

129.

Defendant neither admits nor denies the allegations contained in Paragraph No. 129 of the Plaintiff's Complaint for want of sufficient information to form a

belief as to the truth thereof, and places Plaintiff on strict proof of same.

Cover-Up Scheme

130.

Defendant denies as pled the allegations contained in Paragraph 130 of Plaintiff's complaint.

131.

Defendant denies as pled the allegations contained in Paragraph 131 of Plaintiff's complaint.

132.

Defendant neither admits nor denies the allegations contained in Paragraph No. 132 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

133.

Defendant neither admits nor denies the allegations contained in Paragraph No. 133 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

134.

Defendant neither admits nor denies the allegations contained in Paragraph No. 134 of the Plaintiff's Complaint for want of sufficient information to form a

belief as to the truth thereof, and places Plaintiff on strict proof of same.

135.

Defendant neither admits nor denies the allegations contained in Paragraph No. 135 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

136.

Defendant neither admits nor denies the allegations contained in Paragraph No. 136 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

137.

Defendant neither admits nor denies the allegations contained in Paragraph No. 137 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

RICO Count 1

138.

Defendant restates and incorporates its responses to paragraphs 96 through 137 as if fully stated herein.

139.

Defendant neither admits nor denies the allegations contained in Paragraph

No. 139 of the Plaintiff's Complaint, including subparagraphs (a) through(i), for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

140.

Defendant neither admits nor denies the allegations contained in Paragraph No. 140 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

141.

Defendant neither admits nor denies the allegations contained in Paragraph No. 141 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

142.

Defendant denies as pled the allegations contained in Paragraph 142 of Plaintiff's complaint.

RICO Count 2

143.

Defendant restates and incorporates its responses to paragraphs 138 through 142 as if fully stated herein.

144.

Defendant denies as pled the allegations contained in Paragraph 144 of Plaintiff's complaint.

RICO Count 3

145.

Defendant restates and incorporates its responses to paragraphs 143 through 144 as if fully stated herein.

146.

Defendant denies as pled the allegations contained in Paragraph 146 of Plaintiff's complaint.

RICO Count 4

147.

. Defendant restates and incorporates its responses to paragraphs 145 through 146 as if fully stated herein.

148.

Defendant denies as pled the allegations contained in Paragraph 148 of Plaintiff's complaint.

Count VI – 42 U.S.C. § 1983

149.

Defendant restates and incorporates its responses to paragraphs 147 through 148 as if fully stated herein.

150.

Defendant neither admits nor denies the allegations contained in Paragraph No. 150 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

151.

Defendant neither admits nor denies the allegations contained in Paragraph No. 151 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

152.

Defendant neither admits nor denies the allegations contained in Paragraph No. 152 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

153.

Defendant neither admits nor denies the allegations contained in Paragraph No. 153 of the Plaintiff's Complaint for want of sufficient information to form a

belief as to the truth thereof, and places Plaintiff on strict proof of same.

154.

Defendant neither admits nor denies the allegations contained in Paragraph No. 154 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

155.

Defendant neither admits nor denies the allegations contained in Paragraph No. 155 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

156.

Defendant neither admits nor denies the allegations contained in Paragraph No. 156 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

157.

Defendant neither admits nor denies the allegations contained in Paragraph No. 157 of the Plaintiff's Complaint for want of sufficient information to form a belief as to the truth thereof, and places Plaintiff on strict proof of same.

Count VII – Punitive Damages

158.

Defendant restates and incorporates its responses to paragraphs 149 through 157 as if fully restated herein.

159.

Defendant denies as pled the allegations contained in Paragraph 159 of Plaintiff's complaint.

Count VIII – Attorney's Fees and Expenses

160.

Defendant restates and incorporates its responses to paragraphs 158 through 159 as if fully restated herein.

161.

Defendant denies as pled the allegations contained in Paragraph 161 of Plaintiff's complaint.

162.

Defendant denies each and every allegation contained in the unnumbered paragraph following paragraph 161 of Plaintiff's Complaint, including subparagraphs A) through H).

163.

Defendant specifically denies each and every allegation contained in Plaintiff's First Amended and Recast Complaint for Damages not specifically admitted herein.

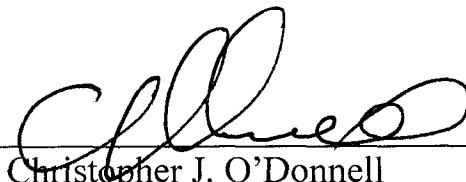
WHEREFORE, having fully answered the Plaintiff's Complaint, Defendant prays:

- (a) That its answer and defenses be inquired into and sustained;
- (b) That the Plaintiff's Complaint be dismissed and that all relief requested therein be denied; and
- (c) For any and all other relief the Court deems just or proper.
- (d) Defendant requests a twelve person jury trial of all issues so triable.

Respectfully Submitted, this 1st day of December, 2006.

DREW ECKL & FARNHAM, LLP

By: _____



Christopher J. O'Donnell

Georgia Bar No. 549945

Attorney for Defendant Applied
Technical Services, Inc.

DREW ECKL & FARNHAM, LLP

8 St. Andrews Court

P. O. Box 624

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

DOUGLAS ASPHALT
COMPANY, JOEL H. SPIVEY and
KYLE SPIVEY,

Plaintiffs,

v.

GORE, INC.; APPLIED
TECHNICAL SERVICES, INC;
GEORGENE M. GEARY; GLENN
DURRENCE; GUOHUA
"GEORGE" LIAN; PAUL V.
MULLINS; GREG MAYO; LARRY
MATTHEWS; HAROLD
LINNENKOHL; and RICK
DOUDS,

Defendants.

Civil Action No:2:06-cv-229-AAA

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the above and foregoing **ANSWER AND DEFENSES AND TWELVE-PERSON JURY DEMAND** by causing same to be placed in the United States mail, postage prepaid, to:

Ed Heustess, Jr.
4201 Pleasant Hill Road, N.W., Suite A
Duluth, GA 30096

Paul V. Mullins
Georgia DOT
604 Secret Valley Drive
Ballground, GA

Glenn Durrence
Georgia DOT
204 N. Highway 301
Jesup, GA

Georgene M. Geary
Georgia DOT
15 Kennedy Drive
Forest Park, GA

Greg Mayo
Georgia DOT
No. 2 Capital Square, S.W.
Atlanta, GA

Larry Matthews
Matthews Construction Management
2620 N. Berkley Road, N.W., Apt. 714
Duluth, GA

Guohua "George" Lian
Georgia DOT 15 Kennedy Drive
Forest Park, GA

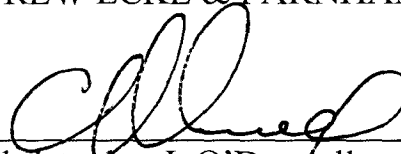
Harold Linnenkohl
Georgia DOT
No. 2 Capital Square S.W.
Atlanta, GA

Rick Douds
15 Kennedy Drive
Forest Park, GA

C. Dorian Britt
Savage, Turner, Pinson & Karsman
P. O. Box 10600
Savannah, GA 31412

This 1st day of December, 2006.

DREW ECKL & FARNHAM, LLP

A handwritten signature in black ink, appearing to read "C. O'Donnell", written over a horizontal line.

Christopher J. O'Donnell
Georgia Bar No. 549945

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